



House of Representatives

General Assembly

File No. 240

January Session, 2001

Substitute House Bill No. 6967

House of Representatives, April 11, 2001

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING ADOPTION OF CHILDREN IN STATE FOSTER CARE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 17a-44 of the general statutes is
2 repealed and the following is substituted in lieu thereof:

3 (a) The photo-listing service shall [semiannually] quarterly check
4 the status of photo-listed children for whom inquiries have been
5 received. Periodic checks shall be made by such service to determine
6 the progress toward adoption of such children and the status of those
7 children registered but never photo-listed because of placement in [an]
8 a preadoptive or adoptive home prior to or at the time of registration.

9 Sec. 2. Section 17a-91 of the general statutes is repealed and the
10 following is substituted in lieu thereof:

11 The Commissioner of Children and Families shall report, on
12 February fifteenth annually, to the Governor and to the joint standing

13 committees of the General Assembly having cognizance of matters
14 relating to human services, the judiciary and human rights and
15 opportunities, with respect to the status, (1) as of the January first
16 preceding, of all children committed to the commissioner's custody,
17 including in such report the date of commitment with respect to each
18 child, [and] (2) of the central registry and monitoring system
19 established in accordance with subsection (d) of section 17a-110, and
20 (3) of the amount of time elapsed between the termination of parental
21 rights and the finalization of the adoption of the child.

22 Sec. 3. Section 17a-110a of the general statutes is repealed and the
23 following is substituted in lieu thereof:

24 (a) In order to achieve early permanency for children, decrease
25 children's length of stay in foster care, [and] reduce the number of
26 moves children experience in foster care and reduce the amount of
27 time between termination of parental rights and adoption, the
28 Commissioner of Children and Families shall establish a program for
29 concurrent permanency planning.

30 (b) Concurrent permanency planning involves a planning process to
31 identify permanent placements and prospective adoptive parents so
32 that when termination of parental rights are granted by the court
33 pursuant to section 17a-112, as amended by this act, or section 45a-717,
34 as amended by this act, permanent placement or adoption proceedings
35 may commence immediately.

36 (c) The commissioner shall establish guidelines and protocols for
37 child-placing agencies involved in concurrent permanency planning,
38 including criteria for conducting concurrent permanency planning
39 based on relevant factors such as: (1) Age of the child and duration of
40 out-of-home placement; (2) prognosis for successful reunification with
41 parents; (3) availability of relatives and other concerned individuals to
42 provide support or a permanent placement for the child; (4) special
43 needs of the child; and (5) other factors affecting the child's best

44 interests, goals of concurrent permanency planning, support services
45 that are available for families, permanency options, and the
46 consequences of not complying with case plans.

47 (d) Within six months of out-of-home placement, the Department of
48 Children and Families shall complete an assessment of the likelihood
49 of the child's being reunited with either or both birth parents, based on
50 progress made to date. The Department of Children and Families shall
51 develop a concurrent permanency plan for families with poor
52 prognosis for reunification within such time period. Such assessment
53 and concurrent permanency plan shall be filed with the court.

54 (e) Concurrent permanency planning programs must include
55 involvement of parents and full disclosure of their rights and
56 responsibilities.

57 (f) The commissioner shall provide ongoing technical assistance,
58 support, and training for local child-placing agencies and other
59 individuals and agencies involved in concurrent permanency
60 planning.

61 Sec. 4. Subsection (o) of section 17a-112 of the general statutes is
62 repealed and the following is substituted in lieu thereof:

63 (o) In the case where termination of parental rights is granted, the
64 guardian of the person or statutory parent shall report to the court
65 within thirty days of the date judgment is entered on a case plan, as
66 defined by the federal Adoption Assistance and Child Welfare Act of
67 1980, for the child which shall include measurable objectives and time
68 schedules. At least every [six] three months thereafter, such guardian
69 or statutory parent shall make a report to the court on the progress
70 made on implementation of the plan. The court may convene a hearing
71 upon the filing of a report and shall convene a hearing for the purpose
72 of reviewing the plan for the child no more than twelve months from
73 the date judgment is entered and at least once a year thereafter until

74 the court determines that the adoption plan has become finalized. For
75 children where the commissioner has determined that adoption is
76 appropriate, the report on the implementation of the plan shall include
77 a description of the reasonable efforts the department is taking to
78 promote and expedite the adoptive placement and to finalize the
79 adoption of the child, including documentation of child specific
80 recruitment efforts. If the court determines that the department has not
81 made reasonable efforts to place a child in an adoptive placement or
82 that reasonable efforts have not resulted in the placement of the child,
83 the court may order the Department of Children and Families, within
84 available appropriations, to contract with a child-placing agency to
85 arrange for the adoption of the child. The department, as statutory
86 parent, shall continue to provide such care and services for the child
87 while a child-placing agency is arranging for the adoption of the child.

88 Sec. 5. Section 17a-114 of the general statutes is repealed and the
89 following is substituted in lieu thereof:

90 (a) No child in the custody of the Commissioner of Children and
91 Families shall be placed with any person, unless such person is
92 licensed by the department for that purpose. Any person licensed by
93 the department to accept placement of a child is deemed to be licensed
94 to accept placement as a foster family or prospective adoptive family.
95 The commissioner shall adopt regulations, in accordance with the
96 provisions of chapter 54, to establish the licensing procedures and
97 standards. [Any criminal records check conducted by the
98 commissioner shall be a criminal records check requested from the
99 State Police Bureau of Identification and the Federal Bureau of
100 Investigation.]

101 (b) The Commissioner of Children and Families shall arrange for the
102 fingerprinting of the applicant and all persons sixteen years of age and
103 older residing in the home of the applicant or licensee or for the
104 conducting of any other method of positive identification required by

105 the State Police Bureau of Identification or the Federal Bureau of
106 Identification. The fingerprints and other positive identifying
107 information shall be forwarded to the State Police Bureau of
108 Identification, which shall conduct a state criminal history records
109 check and submit the fingerprints or other identifying information to
110 the Federal Bureau of Investigation for a national criminal history
111 records check. The commissioner shall also determine whether the
112 applicant or licensee is part of the state child abuse registry established
113 pursuant to section 17a-101k.

114 [(b)] (c) Notwithstanding the requirements of subsection (a) of this
115 section, the commissioner may place a child with a relative who is not
116 licensed for a period of up to forty-five days provided a satisfactory
117 home visit is conducted, a basic assessment of the family is completed
118 and such relative attests that such relative and any adult living within
119 the household have not been convicted of a crime or arrested for a
120 felony against a person, for injury or risk of injury to or impairing the
121 morals of a child, or for the possession, use or sale of a controlled
122 substance. Placements with a relative beyond such forty-five-day
123 period shall be subject to certification by the commissioner, except that
124 a relative who was not certified prior to October 1, 2001, shall be
125 subject to licensure under subsection (a) of this section on or after
126 October 1, 2001. The commissioner shall adopt regulations, in
127 accordance with the provisions of chapter 54, to establish certification
128 procedures and standards for a caretaker who is a relative of such
129 child.

130 Sec. 6. Section 17a-121a of the general statutes is repealed and the
131 following is substituted in lieu thereof:

132 The Department of Children and Families may provide counseling
133 and referral services after adoption to adoptees and adoptive families
134 for whom the department provided such services before the adoption.
135 Postadoption services include assigning a mentor to a family, training

136 after licensing, support groups, behavioral management counseling,
137 therapeutic respite care, referrals to community providers, a telephone
138 help line and training of public and private mental health professionals
139 in postadoption issues.

140 Sec. 7. Section 17a-117 of the general statutes is repealed and the
141 following is substituted in lieu thereof:

142 (a) The Department of Children and Families may, and is
143 encouraged to contract with child-placing agencies to arrange for the
144 adoption of children who are free for adoption. If (1) a child for whom
145 adoption is indicated, cannot, after all reasonable efforts consistent
146 with the best interests of the child, be placed in adoption through
147 existing sources because the child is a special needs child and (2) the
148 adopting family meets the standards for adoption which any other
149 adopting family meets, the Commissioner of Children and Families
150 shall, before adoption of such child by such family, certify such child
151 as a special needs child and, after adoption, provide one or more of the
152 following subsidies for the adopting parents: (A) A special-need
153 subsidy, which is a lump sum payment paid directly to the person
154 providing the required service, to pay for an anticipated expense
155 resulting from the adoption when no other resource is available for
156 such payment; or (B) a periodic subsidy which is a payment to the
157 adopting family; and (C) in addition to the subsidies granted under
158 this subsection, any medical benefits which are being provided prior to
159 final approval of the adoption by the Court of Probate or the Superior
160 Court in accordance with the fee schedule and payment procedures
161 under the state Medicaid program administered by the Department of
162 Social Services shall continue as long as the child qualifies as a
163 dependent of the adoptive parent under the provisions of the Internal
164 Revenue Code. Such medical subsidy may continue only until the
165 child reaches age twenty-one. A special-need subsidy may only be
166 granted until the child reaches age eighteen. A periodic subsidy may
167 continue only until the child reaches age eighteen and is subject to

168 biennial review as provided for in section 17a-118. The amount of a
169 periodic subsidy shall not exceed the current costs of foster
170 maintenance care.

171 (b) Requests for subsidies after a final approval of the adoption by
172 the Court of Probate or the Superior Court may be considered at the
173 discretion of the commissioner for conditions resulting from or directly
174 related to the totality of circumstances surrounding the child prior to
175 placement in adoption. A written certification of the need for a subsidy
176 shall be made by the Commissioner of Children and Families in each
177 case and the type, amount and duration of the subsidy shall be
178 mutually agreed to by the commissioner and the adopting parents
179 prior to the entry of such decree. Any subsidy decision by the
180 Commissioner of Children and Families may be appealed by a licensed
181 child-placing agency or the adopting parent or parents to the Adoption
182 Subsidy Review Board established under subsection (c) of this section.
183 The commissioner shall adopt regulations establishing the procedures
184 for determining the amount and the need for a subsidy.

185 (c) There is established an Adoption Subsidy Review Board to hear
186 appeals under this section, section 17a-118 and section 17a-120. The
187 board shall consist of the Commissioner of Children and Families, or
188 the commissioner's designee, and a licensed representative of a
189 child-placing agency and an adoptive parent appointed by the
190 Governor. The Governor shall appoint an alternate licensed
191 representative of a child-placing agency and an alternate adoptive
192 parent. Such alternative members shall, when seated, have all the
193 powers and duties set forth in this section and sections 17a-118 and
194 17a-120. Whenever an alternate member serves in place of a member of
195 the board, such alternate member shall represent the same interest as
196 the member in whose place such alternative member serves. All
197 decisions of the board shall be based on the best interest of the child.
198 Appeals under this section shall be in accordance with the provisions
199 of chapter 54.

200 Sec. 8. Subsection (j) of section 45a-717 of the general statutes is
201 repealed and the following is substituted in lieu thereof:

202 (j) In the case where termination of parental rights is granted, the
203 guardian of the person or statutory parent shall report to the court
204 within [ninety] thirty days of the date judgment is entered on a case
205 plan, as defined by the federal Adoption Assistance and Child Welfare
206 Act of 1980, as amended from time to time, for the child. At least every
207 [six] three months thereafter, such guardian or statutory parent shall
208 make a report to the court on the implementation of the plan. The
209 court may convene a hearing upon the filing of a report and shall
210 convene a hearing for the purpose of reviewing the plan no more than
211 [fifteen] twelve months from the date judgment is entered and at least
212 once a year thereafter until such time as any proposed adoption plan
213 has become finalized.

214 Sec. 9. Subsection (k) of section 46b-129 of the general statutes is
215 repealed and the following is substituted in lieu thereof:

216 [(k) (1) Ten months after the adjudication of neglect of the child or
217 youth or twelve months after the vesting of temporary care and
218 custody pursuant to subsection (b) of this section]

219 (k) (1) Ten months after placement of the child or youth in the care
220 and custody of the commissioner pursuant to a voluntary placement
221 agreement, or removal of a child or youth pursuant to subsection (c) of
222 section 17a-101g, or an order issued by a court of competent
223 jurisdiction, whichever is earlier, the commissioner shall file a motion
224 for review of a permanency plan and to extend or revoke the
225 commitment. Ten months after [a] each permanency plan [has been
226 approved by the court pursuant to this subsection, unless the court has
227 approved placement in long-term foster care with an identified person
228 or an independent living program, or the commissioner has filed a
229 petition for termination of parental rights or motion to transfer
230 guardianship] hearing required under this subsection, the

231 commissioner shall file a motion for review of the permanency plan
232 and to extend or revoke the commitment if the child or youth remains
233 in the custody of the commissioner. A hearing on any such motion
234 shall be held within sixty days of the filing. The court shall provide
235 notice to the child or youth, and [his] the parent or guardian of such
236 child or youth of the time and place of the court hearing [on any such
237 motion] not less than fourteen days prior to such hearing.

238 (2) At such hearing, the court shall determine whether it is
239 appropriate to continue to make reasonable efforts to reunify the child
240 or youth with the parent. In making this determination, the court shall
241 consider the best interests of the child, including the child's need for
242 permanency. If the court finds that further efforts are not appropriate,
243 the commissioner has no duty to make further efforts to reunify the
244 child or youth with the parent. If the court finds that further efforts are
245 appropriate, such efforts shall ensure that the child or youth's health
246 and safety are protected and such efforts shall be specified by the
247 court, including the services to be provided to the parent, what steps
248 the parent may take to address the problem that prevents the child or
249 youth from safely reuniting with the parent and a time period, not
250 longer than six months, for such steps to be accomplished.

251 (3) At [such] each permanency hearing, the court shall approve a
252 permanency plan that is in the best interests of the child or youth and
253 takes into consideration the [child] child's or youth's need for
254 permanency. The child's or youth's health and safety shall be of
255 paramount concern in formulating such plan. Such permanency plan
256 may include the goal of (A) revocation of commitment and placement
257 of the child or youth with the parent or guardian, with or without
258 protective supervision; [(B) placing the child or youth in an
259 independent living program; (C)] (B) transfer of guardianship; [(D)
260 approval of] (C) long-term foster care with [an identified foster parent;
261 (E)] a relative licensed as a foster parent or certified as a relative
262 caregiver; (D) adoption and filing of termination of parental rights;

263 [(F)] (E) if the permanency plan identifies adoption as an option, a
264 thorough adoption assessment and child specific recruitment. As used
265 in this subdivision, "thorough adoption assessment" means conducting
266 and documenting face-to-face interviews with the child, foster care
267 providers, and other significant parties and "child specific recruitment"
268 means recruiting an adoptive placement targeted to meet the
269 individual needs of the specific child, including, but not limited to, use
270 of the media, use of photo-listing services and any other in-state or
271 out-of-state resources that may be used to meet the specific needs of
272 the child, unless there are extenuating circumstances that indicate that
273 these efforts are not in the best interest of the child; or [(G)] (F) such
274 other [appropriate action] planned permanent living arrangement
275 ordered by the court, provided the commissioner has documented a
276 compelling reason why it would not be in the best interests of the child
277 or youth for the permanency plan to include the goals in
278 subparagraphs (A) to (D), inclusive, of this subdivision. Such other
279 planned permanent living arrangement may include, but not be
280 limited to, placement of the child or youth in an independent living
281 program or long-term foster care with an identified foster parent. At
282 the permanency plan hearing, the court shall review the status of the
283 child, the progress being made to implement the permanency plan and
284 determine a timetable for attaining the permanency prescribed by the
285 plan. The court shall extend commitment if extension is in the best
286 interests of the child or youth for a period of twelve months. The court
287 shall revoke commitment if a cause for commitment no longer exists
288 and it is in the best interests of the child or youth.

289 Sec. 10. Section 46b-129a of the general statutes is repealed and the
290 following is substituted in lieu thereof:

291 In proceedings in the Superior Court under section 46b-129, as
292 amended by this act: (1) The court may order the child, the parents, the
293 guardian, or other persons accused by a competent witness with
294 abusing the child, to be examined by one or more competent

295 physicians, psychiatrists or psychologists appointed by the court; (2) a
296 child shall be represented by counsel knowledgeable about
297 representing such children who shall be appointed by the court to
298 represent the child [whose fee shall be paid by the parents or guardian,
299 or the estate of the child, or, if such persons are unable to pay, by the
300 court. In all cases in which the court deems it appropriate, the court
301 shall also appoint a person, other than the person appointed to
302 represent the child, as guardian ad litem for such child to speak on
303 behalf of the best interests of the child, which] and to act as guardian
304 ad litem for the child, provided (A) the primary role of any counsel for
305 the child including the counsel who also serves as guardian ad litem,
306 shall be to advocate for the child in accordance with the Rules of
307 Professional Conduct, (B) a separate guardian ad litem shall be
308 appointed to speak on behalf of the best interest of the child if the
309 attorney for the child or the judge determines there is conflict of
310 interest between the stated position or wishes of the child and the
311 interests of the child, and (C) in the event that a separate guardian ad
312 litem is appointed, the person previously serving as both counsel and
313 guardian ad litem for the child shall continue to serve as counsel for
314 the child and a different person shall be appointed as guardian ad
315 litem, unless the court for good cause also appoints a different person
316 as counsel for the child. No person who has served as both counsel and
317 guardian ad litem for a child shall thereafter serve solely as the child's
318 guardian ad litem. The guardian ad litem is not required to be an
319 attorney-at-law but shall be knowledgeable about the needs and
320 protection of children. [and whose fee] The counsel and guardian ad
321 litem's fees, if any, shall be paid by the parents or guardian, or the
322 estate of the child, or, if such persons are unable to pay, by the court;
323 (3) the privilege against the disclosure of communications between
324 husband and wife shall be inapplicable and either may testify as to any
325 relevant matter; and (4) evidence that the child has been abused or has
326 sustained a nonaccidental injury shall constitute prima facie evidence
327 that shall be sufficient to support an adjudication that such child is

328 uncared for or neglected.

329 Sec. 11. Section 46b-141 of the general statutes is repealed and the
330 following is substituted in lieu thereof:

331 (a) Except as otherwise limited by subsection (i) of section 46b-140,
332 commitment of children convicted as delinquent by the Superior Court
333 to the Department of Children and Families shall be for (1) an
334 indeterminate time up to a maximum of eighteen months, or (2) when
335 so convicted for a serious juvenile offense, up to a maximum of four
336 years at the discretion of the court, unless extended as hereinafter
337 provided.

338 (b) The Commissioner of Children and Families may [petition the
339 court] file a motion for an extension of the commitment as provided in
340 subdivision (1) of subsection (a) of this section beyond the eighteen-
341 month period on the grounds that such extension is for the best
342 interest of the child or the community. The court shall give notice to
343 the parent or guardian and to the child at least fourteen days prior to
344 the hearing upon such [petition] motion. The court may, after hearing
345 and upon finding that such extension is in the best interest of the child
346 or the community, continue the commitment for an additional period
347 of not more than eighteen months. Not later than twelve months after
348 a child is committed to the commissioner in accordance with
349 subdivision (1) of subsection (a) of this section, the court shall hold a
350 permanency hearing in accordance with subsection (d) of this section.
351 Not more than twelve months after each such hearing, the court shall
352 hold a subsequent permanency hearing if the child remains committed
353 to the commissioner on the date of such subsequent hearing.

354 (c) The [Commissioner of Children and Families shall obtain judicial
355 review of] court shall hold a permanency hearing in accordance with
356 subsection (d) of this section for each child convicted as delinquent for
357 a serious juvenile offense as provided in subdivision (2) of subsection
358 (a) of this section within [eighteen] twelve months of commitment to

359 the Department of Children and Families and every [eighteen] twelve
360 months thereafter. Such [judicial review] hearing may include the
361 submission of a [petition] motion to the court by the commissioner to
362 either (1) modify such commitment, or (2) extend the commitment
363 beyond such four-year period on the grounds that such extension is for
364 the best interest of the child or the community. The court shall give
365 notice to the parent or guardian and to the child at least fourteen days
366 prior to the hearing upon such [petition] motion. The court, after
367 hearing, may modify such commitment or, upon finding that such
368 extension is in the best interest of the child or the community, continue
369 the commitment for an additional period of not more than eighteen
370 months.

371 (d) At all permanency hearings required pursuant to subsection (b)
372 or (c) of this section, the court shall review and approve a permanency
373 plan that is in the best interests of the child and takes into
374 consideration the child's need for permanency. Such permanency plan
375 may include the goal of: (1) Revocation of commitment and placement
376 of the child with the parent or guardian, (2) transfer of guardianship,
377 (3) permanent placement with a relative, (4) adoption, or (5) such other
378 planned permanent living arrangement ordered by the court, provided
379 the Commissioner of Children and Families has documented a
380 compelling reason why it would not be in the best interests of the child
381 for the permanency plan to include the goals in subdivisions (1) to (4),
382 inclusive, of this subsection. Such other planned permanent living
383 arrangement may include, but not be limited to, placement of the child
384 in an independent living program. At any such hearing, the court shall
385 also determine whether the Commissioner of Children and Families
386 has made reasonable efforts to achieve the permanency plan in effect.

387 [(d)] (e) All other commitments of delinquent, mentally deficient or
388 mentally ill children by the court pursuant to the provisions of section
389 46b-140, may be for an indeterminate time. Commitments may be
390 reopened and terminated at any time by said court, provided the

391 Commissioner of Children and Families shall be given notice of such
392 proposed reopening and a reasonable opportunity to present [his] the
393 commissioner's views thereon. The parents or guardian of such child
394 may apply not more than twice in any calendar year for such
395 reopening and termination of commitment. Any order of the court
396 made under the provisions of this section shall be deemed a final order
397 for purposes of appeal, except that no bond shall be required nor costs
398 taxed on such appeal.

399 Sec. 12. Subdivision (1) of subsection (a) of section 45a-724 of the
400 general statutes is repealed and the following is substituted in lieu
401 thereof:

402 (1) A statutory parent appointed under the provisions of section
403 17a-112, as amended by this act, section 45a-717, as amended by this
404 act, or section 45a-718 may, by written agreement, subject to the
405 approval of the Court of Probate as provided in section 45a-727, as
406 amended by this act, or subject to the approval of the Superior Court
407 for juvenile matters pursuant to any petition for termination of
408 parental rights filed under section 17a-112, as amended by this act, or
409 transferred to the Superior Court for juvenile matters under section
410 45a-715, give in adoption to any adult person any minor child of whom
411 he or she is the statutory parent; provided, if the child has attained the
412 age of twelve, the child shall consent to the agreement.

413 Sec. 13. Section 45a-727 of the general statutes is repealed and the
414 following is substituted in lieu thereof:

415 (a) (1) Each adoption matter shall be instituted by filing an
416 application in a Court of Probate, or with the Superior Court for
417 juvenile matters where termination of parental rights to the child
418 occurred pursuant to section 17a-112, as amended by this act, or 45a-
419 715, together with the written agreement of adoption, in duplicate.
420 One of the duplicates shall be sent immediately to the Commissioner
421 of Children and Families.

422 (2) The application shall incorporate a declaration that to the best of
423 the knowledge and belief of the declarant there is no other proceeding
424 pending or contemplated in any other court affecting the custody of
425 the child to be adopted, or if there is such a proceeding, a statement in
426 detail of the nature of the proceeding and affirming that the proposed
427 adoption would not conflict with or interfere with the other
428 proceeding. The court shall not proceed on any application which does
429 not contain such a declaration. The application shall be signed by one
430 or more of the parties to the agreement, who may waive notice of any
431 hearing on it. For the purposes of this declaration, visitation rights
432 granted by any court shall not be considered as affecting the custody of
433 the child.

434 (3) An application for the adoption of a minor child not related to
435 the adopting parents shall not be accepted by the Court of Probate or
436 by the Superior Court for juvenile matters where termination of
437 parental rights to the child occurred pursuant to section 17a-112, as
438 amended by this act, or 45a-715, unless (A) the child sought to be
439 adopted has been placed for adoption by the Commissioner of
440 Children and Families or a child-placing agency, and the placement for
441 adoption has been approved by the commissioner or a child-placing
442 agency; (B) the placement requirements of this section have been
443 waived by the Adoption Review Board as provided in section 45a-764;
444 (C) the application is for adoption of a minor child by a stepparent as
445 provided in section 45a-733; or (D) the application is for adoption of a
446 child by another person who shares parental responsibility for the
447 child with the parent as provided in subdivision (3) of subsection (a) of
448 section 45a-724. The commissioner or a child-placing agency may place
449 a child in adoption who has been identified or located by a prospective
450 parent, provided any such placement shall be made in accordance with
451 regulations promulgated by the commissioner pursuant to section
452 45a-728. If any such placement is not made in accordance with such
453 regulations, the adoption application shall not be approved by the
454 Court of Probate or by the Superior Court for juvenile matters where

455 termination of parental rights to the child occurred pursuant to section
456 17a-112, as amended by this act, or 45a-715.

457 (4) The application and the agreement of adoption shall be filed in
458 the Court of Probate for the district where the adopting parent resides
459 or in the district where the main office or any local office of the
460 statutory parent is located or shall be filed in the Superior Court for
461 juvenile matters where termination of parental rights to the child
462 occurred pursuant to section 17a-112, as amended by this act, or 45a-
463 715.

464 (5) The provisions of section 17a-152, regarding placement of a child
465 from another state, and section 17a-175, regarding the interstate
466 compact on the placement of children, shall apply to adoption
467 placements.

468 (b) (1) The Court of Probate or the Superior Court for juvenile
469 matters where termination of parental rights to the child occurred
470 pursuant to section 17a-112, as amended by this act, or 45a-715, shall
471 request the commissioner or a child-placing agency to make an
472 investigation and written report to it, in duplicate, within sixty days
473 from the receipt of such request. A duplicate of the report shall be sent
474 immediately to the Commissioner of Children and Families.

475 (2) The report shall be filed with the Court of Probate or shall be
476 filed with the Superior Court for juvenile matters where termination of
477 parental rights to the child occurred pursuant to section 17a-112, as
478 amended by this act, or 45a-715, within the sixty-day period. The
479 report shall indicate the physical and mental status of the child and
480 shall also contain such facts as may be relevant to determine whether
481 the proposed adoption will be in the best interests of the child,
482 including the physical, mental, genetic and educational history of the
483 child and the physical, mental, social and financial condition of the
484 parties to the agreement and the biological parents of the child, if
485 known, and whether the best interests of the child would be served in

486 accordance with the criteria set forth in section 45a-727a. The report
487 shall include a history of physical, sexual or emotional abuse suffered
488 by the child, if any. The report may set forth conclusions as to whether
489 or not the proposed adoption will be in the best interests of the child.

490 (3) The physical, mental and genetic history of the child shall
491 include information about: (A) The child's health status at the time of
492 placement; (B) the child's birth, neonatal, and other medical,
493 psychological, psychiatric, and dental history information; (C) a record
494 of immunizations for the child; and (D) the available results of
495 medical, psychological, psychiatric and dental examinations of the
496 child. The report shall include information, to the extent known, about
497 past and existing relationships between the child and the child's
498 siblings, biological parents, extended family, and other persons who
499 have had physical possession of or legal access to the child. The
500 educational history of the child shall include, to the extent known,
501 information about the enrollment and performance of the child in
502 educational institutions, results of educational testing and
503 standardized tests for the child, and special educational needs, if any,
504 of the child.

505 (4) The adoptive parents are entitled to receive copies of the records
506 and other information relating to the history of the child maintained by
507 the commissioner or child-placing agency. The adoptive parents are
508 entitled to receive copies of the records, provided if required by law,
509 the copies have been edited to protect the identity of the biological
510 parents and any other person whose identity is confidential and other
511 identifying information relating to the history of the child. It is the
512 duty of the person placing the child for adoption to edit, to the extent
513 required by law, the records and information to protect the identity of
514 the biological parents and any other person whose identity is
515 confidential.

516 (5) The report shall be admissible in evidence subject to the right of

517 any interested party to require that the person making it appear as a
518 witness, if available, and such person shall be subject to examination.

519 (6) For any report under this section the Court of Probate or the
520 Superior Court for juvenile matters where termination of parental
521 rights to the child occurred pursuant to section 17a-112, as amended by
522 this act, or 45a-715, may assess against the adopting parent or parents a
523 reasonable fee covering the cost and expenses of making the
524 investigation. The fee shall be paid to the state or to the child-placing
525 agency making the investigation and report, provided the report shall
526 be made within the sixty-day period or other time set by the court.

527 (c) (1) Upon the expiration of the sixty-day period or upon the
528 receipt of such report, whichever is first, the Court of Probate or the
529 Superior Court for juvenile matters where termination of parental
530 rights to the child occurred pursuant to section 17a-112, as amended by
531 this act, or 45a-715, shall set a day for a hearing upon the agreement
532 and shall give reasonable notice of the hearing to the parties to the
533 agreement, the child-placing agency if such agency is involved in the
534 adoption, the Commissioner of Children and Families and the child, if
535 over twelve years of age.

536 (2) At the hearing the [court] Probate Court or the Superior Court,
537 where appropriate, may deny the application, enter a final decree
538 approving the adoption if it is satisfied that the adoption is in the best
539 interests of the child or order a further investigation and written report
540 to be filed, in duplicate, within whatever period of time it directs. A
541 duplicate of such report shall be sent to the commissioner. The court
542 may adjourn the hearing to a day after that fixed for filing the report. If
543 such report has not been filed with the court within the specified time,
544 the court may thereupon deny the application or enter a final decree in
545 the manner provided in this section.

546 (3) The Court of Probate or the Superior Court for juvenile matters
547 where termination of parental rights to the child occurred pursuant to

548 section 17a-112, as amended by this act, or 45a-715, shall not
549 disapprove any adoption under this section solely because of an
550 adopting parent's marital status or because of a difference in race, color
551 or religion between a prospective adopting parent and the child to be
552 adopted or because the adoption may be subsidized in accordance
553 with the provisions of section 17a-117, as amended by this act.

554 (4) The Court of Probate or the Superior Court for juvenile matters
555 where termination of parental rights to the child occurred pursuant to
556 section 17a-112, as amended by this act, or 45a-715, shall ascertain as
557 far as possible the date and the place of birth of the child and shall
558 incorporate such facts in the final decree, a copy of which shall be sent
559 to the Commissioner of Children and Families.

560 Sec. 14. Section 45a-736 of the general statutes is repealed and the
561 following is substituted in lieu thereof:

562 Any court of probate or the Superior Court for juvenile matters
563 where termination of parental rights to the child occurred pursuant to
564 section 17a-112, as amended by this act, or 45a-715, as part of its
565 approval of any agreement of adoption or declaration of an intention
566 to adopt, may change the name of the person adopted, as requested by
567 the adopting parent or parents.

568 Sec. 15. Section 45a-745 of the general statutes is repealed and the
569 following is substituted in lieu thereof:

570 (a) For each final decree of adoption decreed by a court of probate
571 or by the Superior Court for juvenile matters, the clerk of the court
572 shall prepare a record on a form prescribed by the Department of
573 Public Health. The record shall include all facts necessary to locate and
574 identify the original birth certificate of the adopted person and to
575 establish the new birth certificate of the adopted person, and shall
576 include official notice from the court of the adoption, including
577 identification of the court action and proceedings.

578 (b) Each petitioner for adoption, the attorney for the petitioner and
579 each social or welfare agency or other person concerned with the
580 adoption shall supply the clerk with information which is necessary to
581 complete the adoption record. The supplying of the information shall
582 be a prerequisite to the issuance of a final adoption decree by the court.

583 (c) Not later than the fifteenth day of each calendar month, the clerk
584 of the Court of Probate or of the Superior Court for juvenile matters
585 shall forward to the Department of Public Health the record provided
586 for in subsection (a) of this section for all final adoption decrees issued
587 during the preceding month.

588 (d) When the Department of Public Health receives a record of
589 adoption for a person born outside the state, the record shall be
590 forwarded to the proper registration authority of the place of birth.

591 (e) The Department of Public Health, upon receipt of a record of
592 adoption for a person born in this state, shall establish a new certificate
593 of birth in the manner prescribed in section 7-53, except that no new
594 certificate of birth shall be established if the court decreeing the
595 adoption, the adoptive parents or the adopted person, if over fourteen
596 years of age, so requests.

597 Sec. 16. Section 45a-748 of the general statutes is repealed and the
598 following is substituted in lieu thereof:

599 Each child-placing agency or the department shall be required to
600 make a reasonable effort to obtain the information provided for in
601 section 45a-746 for each child being placed for adoption or for whom
602 there is a probability of adoption, but the lack of such information shall
603 not be a bar to the granting of a decree of adoption, provided the child-
604 placing agency or department has made a reasonable effort to obtain
605 the information. If the judge of probate or the judge of the appropriate
606 Superior Court for juvenile matters decides that a reasonable effort has
607 not been made to obtain the information or that the information is

608 being unreasonably withheld, the judge may order the child-placing
609 agency or department to make a reasonable effort to obtain the
610 information or to release the information. Any child-placing agency or
611 department aggrieved by the order may appeal to the Superior Court if
612 it is an appeal from a probate court decision, or to the Appellate Court
613 if it is an appeal from a decision of the Superior Court for juvenile
614 matters.

615 Sec. 17. Section 45a-752 of the general statutes is repealed and the
616 following is substituted in lieu thereof:

617 (a) Any person requesting information under section 45a-746 who is
618 of the opinion that any item of information is being withheld by the
619 child-placing agency or department, or any person requesting
620 information under section 45a-751 who has been refused release of the
621 information, may petition the Court of Probate or the Superior Court
622 for juvenile matters for a hearing on the matter. No petition shall be
623 filed if the consents required by section 45a-751b have been denied.
624 Such petition may be filed in the court of probate in the probate district
625 where the adoption was finalized or where the child-placing agency or
626 department has an office or, in the case of a petition by a person who
627 resides in this state, may be filed in the court of probate for the district
628 in which such person resides or in the Superior Court for juvenile
629 matters where termination of parental rights to the child occurred
630 pursuant to section 17a-112, as amended by this act, or 45a-715 and
631 there is a pending application to such Superior Court for adoption of
632 the child.

633 (b) When a petition, filed under the provisions of subsection (a) of
634 this section, is received by the court and if such court is satisfied as to
635 the identity of the petitioner, the court shall first refer the matter
636 within thirty days of receipt of the petition to an advisory panel
637 consisting of four members appointed from a list of panel members
638 provided by the Probate Court Administrator. This list shall include

639 adult adopted persons, biological parents, adoptive parents and social
640 workers experienced in adoption matters. In convening this panel, the
641 court shall make a reasonable effort to include one member from each
642 category of qualified persons. Such panel members shall serve without
643 compensation. Within thirty days of referral of the matter the panel
644 shall begin interviewing witnesses, including the petitioner if the
645 petitioner wants to be heard, and reviewing such other evidence it may
646 deem relevant, and within forty-five days following its initial meeting,
647 shall render a report including recommendations to [the judge of
648 probate] either the Probate Court or the Superior Court for juvenile
649 matters having jurisdiction. The court shall set a day for a hearing on
650 the petition which hearing shall be held not more than thirty days after
651 receiving the panel's report and shall give notice of the hearing to the
652 petitioner and the child-placing agency. The court shall render a
653 decision within forty-five days after the last hearing on the merits as to
654 whether the requested information should be released under the
655 relevant statutes. If the applicant requests the assistance of the child-
656 placing agency or department in locating a person to be identified, the
657 provisions of section 45a-753, as amended by this act, shall apply.

658 Sec. 18. Section 45a-753 of the general statutes is repealed and the
659 following is substituted in lieu thereof:

660 (a) If a request is received pursuant to section 45a-751, the child-
661 placing agency or department which has agreed to attempt to locate
662 the person or persons whose identity is being requested or the child-
663 placing agency or department which furnished a report ordered by the
664 court following a petition made under subsection (f) of this section
665 shall not be required to expend more than ten hours time within sixty
666 days of receipt of the request unless the child-placing agency or
667 department notifies the authorized applicant of a delay and states the
668 reason for the delay. The child-placing agency or department may
669 charge the applicant reasonable compensation and be reimbursed for
670 expenses in locating any person whose identity is being requested. The

671 obtaining of such consent shall be accomplished in a manner which
672 will protect the confidentiality of the communication and shall be done
673 without disclosing the identity of the applicant. For the purposes of
674 this section any records at the Court of Probate or the Superior Court
675 shall be available to an authorized representative of the child-placing
676 agency or department to which the request has been made.

677 (b) If the child-placing agency or department is out-of-state and
678 unwilling to expend time for such purpose, the court of probate which
679 finalized the adoption or terminated parental rights or the superior
680 court which terminated parental rights or which finalized the adoption
681 shall upon petition appoint a licensed or approved child-placing
682 agency or the department to complete the requirements of this section.

683 (c) If the relative whose identity is requested cannot be located or
684 appears to be incompetent but has not been legally so declared, the
685 Court of Probate or the Superior Court shall appoint a guardian ad
686 litem under the provisions of section 45a-132, at the expense of the
687 person making the request. The guardian ad litem shall decide
688 whether to give consent on behalf of the relative whose identity is
689 being requested.

690 (d) If the relative whose identity has been requested has been
691 declared legally incapable or incompetent by a court of competent
692 jurisdiction, then the legal representative of such person may consent
693 to the release of such information.

694 (e) Such guardian ad litem or legal representative shall give such
695 consent unless after investigation [he] such guardian or legal
696 representative concludes that it would not be in the best interest of the
697 adult person to be identified for such consent to be given. If release of
698 the information requires the consent of such guardian ad litem or legal
699 representative, or if the person whose identity is sought is deceased,
700 only the following information may be released: (1) All names by
701 which the person whose identity is being sought has been known, and

702 all known addresses; (2) the date and place of such person's birth; (3)
703 all places where such person was employed; (4) such person's Social
704 Security number; (5) the names of educational institutions such person
705 attended; and (6) any other information that may assist in the search of
706 a person who cannot be located.

707 (f) (1) If (A) the person whose identity is being sought cannot be
708 located or is incompetent, or (B) the child-placing agency or
709 department has not located the person within sixty days, the
710 authorized applicant may petition for access to the information to the
711 court of probate or the superior court which terminated the parental
712 rights or to the court of probate which approved the adoption or the
713 Superior Court for juvenile matters.

714 (2) Within fifteen days of receipt of the petition, the court shall order
715 the child-placing agency or department which has access to such
716 information to present a report. The report by the child-placing agency
717 or department shall be completed within sixty days after receipt of the
718 order from the court.

719 (3) If the child-placing agency or department is out-of-state and
720 unwilling to provide the report, the court shall refer the matter to a
721 child-placing agency in this state or to the department for a report.

722 (4) The report shall determine through an interview with the adult
723 adopted or adult adoptable person and through such other means as
724 may be necessary whether (A) release of the information would be
725 seriously disruptive to or endanger the physical or emotional health of
726 the authorized applicant, and (B) release of the information would be
727 seriously disruptive to or endanger the physical or emotional health of
728 the person whose identity is being requested.

729 (5) Upon receipt of the report, or upon expiration of sixty days,
730 whichever is sooner, the court shall set a time and place for hearing not
731 later than fifteen days after receipt of the report or expiration of such

732 sixty days, whichever is sooner. The court shall immediately give
733 notice of the hearing to the authorized applicant and to the child-
734 placing agency or the department.

735 (6) At the hearing, the authorized applicant may give such evidence
736 to support the petition as the authorized applicant deems appropriate.

737 (7) Within fifteen days after the conclusion of the hearing, the court
738 shall issue a decree as to whether the information requested shall be
739 given to the authorized applicant.

740 (8) The requested information shall be provided to the authorized
741 applicant unless the court determines that: (A) Consent has not been
742 granted by a guardian ad litem appointed by the court to represent the
743 person whose identity has been requested; (B) release of the
744 information would be seriously disruptive to or endanger the physical
745 or emotional health of the authorized applicant; or (C) release of the
746 information would be seriously disruptive to or endanger the physical
747 or emotional health of the person whose identity is being requested.

748 (9) If the court denies the petition and determines that it would be in
749 the best interests of the person whose identity is being requested to be
750 notified that the authorized applicant has petitioned the court for
751 identifying information, the court shall request the child-placing
752 agency or department to so notify the person whose identity is being
753 requested. The notification shall be accomplished in a manner which
754 will protect the confidentiality of the communication and shall be done
755 without disclosing the identity of the authorized applicant. If the
756 person whose identity is being requested is so notified, the authorized
757 applicant who petitioned the court shall be informed that this
758 notification was given.

759 Sec. 19. Subsection (d) of section 17a-10 of the general statutes is
760 repealed and the following is substituted in lieu thereof:

761 (d) If the Superior Court requests a report on any committed child,
762 the commissioner shall be responsible for preparing and transmitting
763 such report to the requesting court. Not more than sixty days nor less
764 than thirty days prior to the expiration of the original commitment of
765 any child to the department, the commissioner may [petition the court]
766 file a motion for an extension of commitment pursuant to the
767 provisions of section 46b-141, as amended by this act. If the
768 commissioner, or the board of review pursuant to the provisions of
769 section 17a-15, at any time during the commitment of any child,
770 determines that termination of commitment of a child is in the best
771 interest of such child, the commissioner or the board may terminate
772 the commitment and such termination shall be effective without
773 further action by the court.

Statement of Legislative Commissioners:

Section 19 was added for consistency.

JUD ***JOINT FAVORABLE SUBST.***

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Significant Cost, Cost, Potential Indeterminate Revenue Loss Avoidance, Potential Indeterminate Revenue Loss, Potential Indeterminate Savings

Affected Agencies: Departments of Children and Families, Public Health, Public Safety; Judicial Department, Probate Court, Office of the Attorney General, Division of Criminal Justice, Public Defenders

Municipal Impact: None

Explanation**State Impact:**

This bill makes various changes that will impact upon the programmatic and financial operation of state agencies involved with children who may be adopted after having been in out-of-home placement.

Should these changes result in expedited adoptions of children who might otherwise be maintained in foster care, the Department of Children and Families (DCF) will experience a savings when the child is not deemed to meet the statutory definition of a special needs child (Section 17a-116 CGS). This will result because monthly maintenance payments to foster parents on the child's behalf will cease at the time of

adoption. Based upon the imposition of inflationary adjustments as recommended by the Governor within his FY 02 – 03 Biennial Budget, effective July 1, 2001, the average monthly foster care payment is projected to be \$721.16 per month (or \$8,654 annually). In these cases, the Department of Social Services will also experience savings, as the child's Medicaid eligibility would cease. Any savings to both agencies would be partially offset by reduced federal financial participation.

However, the majority of adopted children who leave foster care are deemed to be special needs children. In these cases, DCF provides a monthly subsidy slightly less than that paid to foster parents and Medicaid eligibility is continued until age eighteen. Thus, the state will experience a minimal per child savings for each special needs child who may be adopted more rapidly given provisions in the bill. As children in subsidized adoptive care are not carried on the agency's caseload for purposes of determining social work staffing under the Juan F. Consent Decree, a workload reduction, which may lead to future savings, might occur. The magnitude of any potential savings would be dependent upon how many additional children leave foster care, which cannot be determined at this time.

Specific changes and their associated fiscal impacts are as follows:

Section 1 requires DCF to check the status of photo-listed children for whom inquiries have been received quarterly, as opposed to twice a year, as required under current law. It is anticipated that this can be accommodated within the agency's normally budgeted resources.

Section 2 requires DCF to enhance its annual report to the Governor and the General Assembly by including data on the length of time elapsed between termination of parental rights and the finalization of adoption. It is anticipated that the agency can comply with this mandate within its anticipated budgetary resources.

Section 3 clarifies the purpose of concurrent permanency planning

by including the goal of reducing the amount of time between termination of parental rights and adoption. No direct fiscal impact is associated with this change.

Section 4 requires a guardian or statutory parent (DCF) to report every three months to the Superior Court regarding progress on implementing a child's case plan for children who have had their parental rights terminated. Under current law, this report is filed every six months. It further authorizes, but does not require, the court to convene a hearing upon the filing of such a report.

It is anticipated that the DCF and the Judicial Department can accommodate the three-month reporting requirement within their anticipated budgetary resources.

Section 5 codifies current practice regarding conducting criminal background checks of unrelated prospective foster parents and persons aged sixteen years and older residing in the home. It also extends this requirement to certified relatives, and persons aged sixteen years and older residing in the home, on and after October 1, 2001. In the first year of implementation a total of 1,800 additional state and national background checks are anticipated to be submitted to the Department of Public Safety (DPS).

Since DCF will be submitting the names of these persons for state criminal history records checks, the DPS will not charge their usual \$25 per person fee. The DPS will be able to handle this additional workload within their current number of personnel and within existing resources. The national criminal history records check performed by the FBI will cost \$24 per person, for a total cost of \$43,200 for the estimated 1,800 persons. It is presumed that this will be paid by the DCF. The number of criminal history records checks is anticipated to decline significantly in future years.

Finally, this section prohibits placement of a child with an

unlicensed relative foster parent who has not previously been certified, after September 30, 2001. As of March 1, 2001, the department had a total of 1,229 relative caregiver homes. The agency is currently appealing a court order regarding the scope of services that DCF must provide to licensed relative foster parents (pursuant to the Juan F. Consent Decree). Until this legal issue is resolved, costs associated with implementing mandatory licensure are uncertain.

Section 6 defines post-adoption services to include: assigning a mentor to the family; post-licensure training; support groups; behavioral management counseling; therapeutic respite care; referrals to community providers; a telephone help line; and training of public and private mental health professionals in post-adoption issues. Since provision of these services remains subject to the discretion of the commissioner, it is not anticipated that this will result in additional expenditures by the department.

Sections 7, 12 - 18 authorize concurrent jurisdiction by the Superior Court for juvenile matters with the Probate Court for adoption proceedings where the Superior Court ordered termination of parental rights.

Currently all termination of parental rights proceedings that involve DCF (with rare exceptions) are handled in the Superior Court. Of these cases, about 500 annually result in adoptions through the Probate Court. Although the number of these that would be transferred to the Superior Court under the bill is uncertain, it is estimated that about half (or 250) would be. This would result in the assignment of court-appointed counsel and a court hearing in each of these cases. Court appointed attorneys in juvenile matters courts are paid \$350 per case for up to 30 hours. If additional work beyond 30 hours is required, the attorney is paid \$40 for each additional hour of work. This would result in a cost of at least \$87,500 for these attorneys. It is anticipated that the workload associated with additional hearings can be handled

by the Judicial Department within normal budgetary resources.

Unless waived, plaintiff's in Probate Court must submit a \$150 filing fee. Last year the probate court, had 607 cases that involved the termination of parental rights. To the extent that adoptions are handled in juvenile court as provided in this section, passage of the bill would result in an indeterminate revenue loss to the Probate Court. In addition, any cost associated with the appointment of representation in these cases would be eliminated. Attorneys appointed by the Probate Court are paid \$25 per hour.

It is anticipated that the State Registrar of Vital Records will be able to process notifications of adoption decrees from the Superior Court within the normally budgeted resources of the Department of Public Health.

Section 8 requires a guardian or statutory parent (DCF) of a child whose parental rights have been terminated in Probate Court to report to the court within thirty days of the date judgment is entered on the case plan. Under current law, this initial report is to be made within ninety days.

It further requires the guardian or statutory parent (DCF) to submit follow up reports every three months to the Probate Court regarding progress on implementing a child's case plan for children who have had their parental rights terminated. Under current law, this report is filed every six months. And it authorizes, but does not require, the court to convene a hearing upon the filing of such a report, and requires a mandatory court hearing to review the case plan at least every twelve months. Under current law, these hearings are to be held at least every fifteen months.

It is anticipated that the DCF and the Probate Court can accommodate these changes within their anticipated budgetary resources.

Section 9 shortens the length of time that DCF has in which to file a motion for review of a permanency plan. It is anticipated that the department and the Office of the Attorney General will be able to comply with the shortened timeframes within their anticipated budgetary resources.

Provisions in this section conform state law to federal regulations related to the Adoption and Safe Families Act of 1997. Failure to implement these guidelines may result in assessment of an indeterminate financial penalty, which would be based upon a federally determined “extent of non-compliance.”

Section 10 changes the standard of appointing separate guardian ad litem in child neglect and abuse cases from when the court deems it appropriate to when it appears that there is a conflict of interest between the stated position or wishes of the child and the best interests of the child. The Judicial Department spends about \$8.7 million on court-appointed attorneys in juvenile cases. Guardian ad litem costs represent a small portion of this total. Although it is uncertain how the court would implement Section 10’s provisions statewide, it is anticipated that if costs were to increase, that such costs would likely be absorbable. It should be noted, however, that the bill could result in offsetting savings in guardian ad litem costs. Any savings would not be significant.

Sections 11 and 19 establish a permanency hearing process for youth committed to DCF as delinquent. An estimated 700 cases will be heard annually.

For each case, counsel for the child would be required to represent the child's interests during the permanency hearing process. It is estimated that a state-funded counsel for indigent clients would be needed in about 500 of these cases. Counsel in these cases would be appointed in three ways: (1) if the child was previously being served through the family with service needs (FWSN) program, the court

could require the attorney that had been appointed during the FWSN process to handle the permanency plan hearing; (2) a public defender for juvenile matters would be appointed, or (3) a new court appointed attorney would be assigned. The manner of such appointments would be at the discretion of the judge in each case.

In addition, a court hearing would be required in each of the 700 cases. Each hearing would require the involvement of a judge and support staff, a juvenile prosecutor and defense counsel (whether private, court-appointed or a public defender). At this time, it appears that this workload can be absorbed within the anticipated budgetary resources and staff of the Judicial Department, the Division of Criminal Justice and the Public Defenders. However, it should be noted that although the assignment of new court-appointed attorneys in these cases is not anticipated to be common, such attorneys are paid \$350 per case.

The Office of the Attorney General will incur an FY 02 cost of \$221,920 to reflect the three-quarter year salaries of three (3) Assistant Attorney Generals and two (2) Paralegal positions needed to participate in these same hearings, as well as associated other expenses. An additional \$81,680 in fringe benefit costs would be incurred by the state, for a total cost in FY 02 of \$303,600. In FY 03, the annualized cost of this staffing expansion would be \$411,017 in combined operating and fringe benefit costs.

The DCF will incur an FY 02 cost of \$40,665 to support the three-quarter year salary of one (1) Paralegal position, as well as associated other expenses and equipment costs. This position will be required to assist the agency's parole staff in the completion and filing of court documents and preparation of testimony. An additional \$15,790 in fringe benefit costs would be incurred by the state, for a total cost in FY 02 of \$56,455. In FY 03, the annualized cost of this staffing expansion would be \$58,710 in combined operating and fringe benefit costs.

Provisions contained within Sections 11 and 19 conform state law to federal regulation related to the Adoption and Safe Families Act of 1997. Failure to implement these guidelines may result in assessment of an indeterminate financial penalty, which would be based upon a federally determined “extent of non-compliance.”

OLR Bill Analysis

sHB 6967

AN ACT CONCERNING ADOPTION OF CHILDREN IN STATE FOSTER CARE.**SUMMARY:**

This bill gives a juvenile court jurisdiction over adoption matters when it terminates the parental rights of a child. It gives these courts the same authority over these matters as the probate courts have and gives parties the choice of forum. It also modifies and speeds up reporting dates for children who may be adopted by requiring:

1. permanency plan hearings for all children in DCF's custody every 12 months;
2. those having custody of a child who is free for adoption (usually DCF) to file court reports every three months, rather than every six months, and permits courts to hold hearings whenever a report is filed;
3. DCF's photo-listing service to check every three months, rather than twice a year, on the progress toward adoption of photo-listed and registered children; and
4. DCF to include in its annual report to the governor and legislative committees the time lapse between the termination of parental rights and adoption.

The bill specifies (1) procedures for criminal background checks for foster care license applicants and their household members age 16 and older, (2) circumstances under which an attorney can concurrently represent a child's legal and best interests in abuse and neglect cases, and (3) post-adoption services that DCF may offer. The bill also specifies that relative caregivers must be licensed, rather than certified, beginning October 1, 2001. Some of these changes are required by

federal law.

Finally, the bill adds reducing the time between termination of parental rights and adoption as a reason for concurrent permanency planning (i.e., developing permanent out-of-home placement alternatives when it is still possible, but appears unlikely, that the child and parent will reunify).

EFFECTIVE DATE: October 1, 2001

PERMANENCY PLAN REVIEWS

Foster and Voluntarily Placed Children

The federal Adoption and Safe Families Act (ASFA) requires that state foster care agencies obtain court review and approval of permanency plans within one year of a child's first entry into the foster care system, and at least yearly thereafter (42 USC § 675(5)(C)). Under the bill, DCF must file motions for permanency plan reviews by the earlier of: 10 months after taking custody pursuant to a voluntary placement agreement, emergency removal from the home, or court order. The Juvenile Court must hold hearings within 60 days of the filing. DCF must file subsequent motions within 10 months of the plan approval hearing, and the court must hear these motions within 60 days thereafter. The combined effect of these deadlines is to complete permanency plan reviews for all of these children at least every 12 months.

Currently, DCF must make such filings only for abused and neglected children, not for voluntary placements. It must file the first motion by the earlier of 10 months after a court finding of abuse or neglect or 12 months after it first removed a child from his home on an emergency basis. Court hearings must be held within 60 days. These timetables may result in some children being in DCF custody for more than a year without a court-approved permanency plan.

In addition, although currently DCF must file motions for subsequent court review and approvals no later than 10 months after the first hearing, it is not required to do so in cases in which (1) the court has approved a permanency plan for placement in long-term foster care

with an identified person or independent living program or (2) DCF has filed a petition to terminate parental rights or to transfer guardianship.

Juvenile Delinquents

The bill requires DCF to develop permanency plans and juvenile courts to review them yearly while the child is in DCF custody as a result of a delinquency or serious juvenile offender adjudication. The bill specifies that courts must approve permanency plans that are in the child's best interest and consider his need for permanency.

Current law does not require DCF to develop permanency plans for juvenile delinquents or serious juvenile offenders. It must obtain court review only if it seeks to extend a commitment beyond the time permitted by law, or, in the case of children convicted of serious crimes (serious juvenile offenders), every 18 months. The bill reduces to 12 months the period between court reviews of serious juvenile offender commitments. It does not change the 18-month review cycle for other juvenile delinquents.

Prioritized Permanency Plan Options

The bill makes the health and safety of an abused or neglected child the paramount concern in formulating a permanency plan, another federal requirement (42 USC § 671(15)(A)). As under current law, courts must approve plans that are in the child's best interests and take into consideration the child's need for permanency.

As required by ASFA, the bill establishes a preference for one of the following existing permanency goals: (1) revocation of commitment and placement with a parent or guardian, with or without protective supervision; (2) transfer of guardianship; (3) adoption; or (4) long-term foster care with a licensed or certified relative caregiver (ASFA requires relatives to be licensed in the same manner as other foster parents (42 USC § 671(a)(10))).

Currently, permanency goals can also include placing the child or youth in an independent living program and long-term foster care with an identified foster parent (not necessarily a relative). Under the

bill, the court cannot approve these or any other “planned permanent living arrangements” unless DCF establishes a compelling reason why one of the preferred placements is not in the child’s best interest. This is consistent with ASFA requirements (42 USC § 675(5)(C)).

REPORTING REQUIREMENTS

Case Plans

By law, when a superior court terminates the parental rights of a child, DCF or the child’s appointed guardian must report to the court within 30 days with a case plan setting measurable objectives and time schedules for finalizing adoption. The bill imposes the same 30 day deadline on case plan filings in probate court. It reduces, from every six to every three months, the deadline for filing subsequent progress reports. It permits the court that terminated parental rights (this can be either a juvenile or a probate court) to hold a hearing whenever a report is filed. It maintains the requirement that superior court review plans yearly, and extends it to probate court reviews, which currently are on a 15- month cycle.

Photo-Listing Reports

The bill requires DCF’s photo-listing service to check every three months, rather than twice yearly, the status and progress toward adoption of listed children for whom it has received inquiries from potential adoptive parents. It also requires it to check periodically on the progress of children registered as being free for adoption but not photo-listed because they had been placed in a pre-adoptive home at the time of registration. The service must already do this for children not photo-listed because of an adoptive placement.

Annual Report

The bill requires the DCF commissioner to include in her annual report on the adoption registry and monitoring system the amount of time elapsed between the termination of parental rights and adoption finalization. By law, this report is made each February to the governor and the Human Services and Judiciary committees.

CRIMINAL BACKGROUND CHECKS

By regulation, DCF cannot place foster children with a person who has been convicted of or lives in a household with a person who has been convicted of (1) any felony against a person; (2) injury, risk of injury, or impairing the morals of a minor, or (3) possession, use, or sale of any controlled substance.

The bill requires DCF to arrange for fingerprinting and criminal background checks for all foster parent license applicants and people age 16 or older living in their homes. In lieu of fingerprinting, it may conduct any other type of positive identification required by the State Police Bureau of Identification or the Federal Bureau of Identification (FBI).

The fingerprints and other positive identifying information must be forwarded to the State Police Bureau of Identification, which must conduct a state criminal history records check and submit the fingerprints or other identifying information to the FBI for a national criminal history records check. DCF must also determine whether the applicant is part of its child abuse registry (i.e., has been reported as being suspected of abusing a child).

Current law and regulations do not require criminal checks, but DCF policy requires checks of foster parent applicants and adult (age 18 or older) household members.

ELIMINATING CERTIFICATION OF RELATIVE CAREGIVERS

The bill requires relative caregivers to get foster care licenses, rather than certificates, unless DCF certifies them before October 1, 2001. Such licensing is required by federal law (42 USC § 675(5)(C)). Currently, DCF may place children with relative caregivers under more relaxed rules than those required of non-relative foster parents. For example, these relatives are not required to complete the training and evaluation program required of licensees.

ATTORNEYS AND GUARDIANS AD LITEM

The bill requires Superior Court judges to appoint a guardian ad litem

(a person who represents a child's best interest) in all neglect cases, rather than only those they deem appropriate. It requires the attorney appointed to represent a child in a neglect proceeding to also act as the child's guardian ad litem in most cases. It requires the attorney to be knowledgeable about representing abused and neglected children and specifies that his primary role is to advocate for the child's wishes. If it appears to the attorney or court that the child's wishes and best interest conflict, the court must appoint a separate guardian ad litem to make recommendations about his best interest. This person need not be a lawyer but must be knowledgeable about child abuse and children's needs.

If the court appoints a separate guardian ad litem, the person previously serving in both capacities continues to serve as attorney, unless the court has good cause to appoint someone else. But he cannot serve solely as the guardian ad litem.

As under current law, the court must pay the attorney's and guardian's fees if the family cannot afford them.

POST-ADOPTION SERVICES

The bill specifies that post-adoption counseling and referral services for adoptees and adoptive families for whom DCF provided services before the adoption include (1) assigning a mentor to a family, (2) training after licensing, (3) support groups, (4) behavioral management counseling, (5) therapeutic respite care, (6) referrals to community providers, (7) a telephone help line, and (8) training of public and private mental health professionals in post-adoption issues.

BACKGROUND

Federal Adoption and Safe Families Act (ASFA)

ASFA (P.L. 105-89) amended Title IV-E of the Social Security Act, the primary federal funding source for state foster care and adoption assistance programs. It sets eligibility requirements that states must meet to qualify for federal matching funds. It also mandates periodic federal review of each state's success in arranging permanent placements for children in foster care, including by reunification with

their parents, legal guardianship, or adoption. Federal officials can assess penalties against or withhold funds from non-compliant states.

Concurrent Planning

By law, after a court commits an abused or neglected child to DCF, DCF must develop a plan for returning the child to his family or arranging for some other permanent placement, which can include adoption. The court periodically reviews the plans to determine whether to continue, modify, or terminate them.

Within six months of placing a child in foster care or some out-of-home placement, DCF must assess, based on progress to date, whether reunification with one or both birth parents is likely. If the assessment shows a poor prognosis for reunification during this period, DCF must develop a concurrent plan for the child. It must file both the assessment and plan with the court.

A 1999 law requires the DCF commissioner to establish a concurrent permanency planning process to assure that when a court terminates parental rights and a child is legally free for adoption, permanent placement or adoption proceedings can begin immediately.

Related Bills

sHB 6891, favorably reported by the Judiciary Committee, contains identical provisions on permanency plan goal priorities and extending them to voluntarily placed children and juvenile delinquents. It also contains permanency plan review provisions with different “trigger” dates and makes other changes in hearing procedures.

sSB 1094, reported favorably by the Human Service Committee, requires relative caregiver licensing by July 1, 2001.

sHB 6589 (file 40), also favorably reported by that committee, contains identical provisions on guardian ad litem appointments.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 34 Nay 1